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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/719,855

11/21/2003

Gerhard Gaida

Z50031

2930

1218 7590 04/11/2007

CASELLA & HESPOS  
274 MADISON AVENUE  
NEW YORK, NY 10016

EXAMINER

RAO, ANAND SHASHIKANT

ART UNIT

PAPER NUMBER

2621

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/11/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/719,855	<b>Applicant(s)</b> GAIDA ET AL.	
	<b>Examiner</b> Andy S. Rao	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/21/03</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Specification*

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al., (US 2002/0149628 hereinafter referred to as "Smith").

Smith discloses an optical observation apparatus (Smith: figure 1) including: an optical system which produces an image of the object being observed (Smith: paragraph [0032], lines 1-11), and a video device for recording the image and for producing an image signal representative of the image (Smith: paragraph [0034], lines 1-3), characterized in that the video device includes a first memory for temporary storage of the image signal (Smith: paragraph [0039], lines 1-8), a second memory in data communication with the first memory (Smith: paragraph [0038], lines 1-6)), and a control device in control communication with both memories for controlling the storage procedure and data transfer from the first to the second memory (Smith: paragraph [0040], lines 1-13), wherein the control device is adapted for controlling the storage procedure and the data transfer in such a way that overwriting of such data which are stored in the first memory and which have already been stored a given period of time in the first memory is effected (Smith: paragraph [0179], lines 1-5), and that transfer of the content of the first memory to the second memory (73) takes place as a reaction to a trigger signal (Smith: paragraph [0212], lines 1-8), as in claim 1.

Regarding claim 2, Smith discloses that the data communication between the first and second memories is designed for transfer at a high data rate (Smith: paragraph [0039], lines 1-5), as in the claim.

Regarding claim 3, Smith discloses has a memory capacity which is at least as twice as high as that of the first memory (Smith: paragraph [0038], lines 1-5).

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Regarding claims 4-5, Smith discloses that the second memory (73) is adapted to be replaceable (Smith: paragraph [0038], lines 1-6), as in the claims.

Regarding claims 6-7, Smith discloses that the optical system is a stereoscopic optical system, that the image produced by the optical system includes two stereoscopic partial images and that the video device includes two first and two second memories (Smith: paragraph [0213], lines 5-9), a respective one for each stereoscopic partial image (Smith: paragraph [0006], lines 1-6), as in the claims.

Regarding claim 8, Smith discloses characterized in that the video device includes a still camera (Smith: paragraph [0034], lines 1-4), as in the claim.

Regarding claim 9, Smith discloses characterized in that it is in the form of an operation microscope or an endoscope (Smith: paragraph [0032], lines 1-5), as in the claim.

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dyner discloses a method and system for free-space imaging display and interface.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

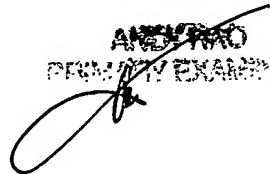
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao  
Primary Examiner  
Art Unit 2621

asr

April 6, 2007

  
ANDY S. RAO  
PRIMARY EXAMINER